

ARTICLE III. NOISE

DIVISION 1. GENERALLY

Sec. 21-51. Definitions and standards.

[As used in this division the following words and terms shall have the meanings respectively ascribed:]

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network.

Daytime/evening shall mean the hours between six o'clock a.m. and eleven o'clock p.m.

Impulsive sound means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.

Leq shall mean an average measure of continuous noise that has the equivalent acoustic energy of the fluctuating signal over the same time period. The time period of monitoring will be continuous over any two (2) hours and will use the A-weighting network reported in decibel units.

Nighttime shall mean the hours between eleven o'clock p.m. and six o'clock a.m.

Noise nuisance means any loud, irritating, vexing or disturbing sound originating from a nearby property under separate ownership which causes injury, discomfort, or distress of a person of reasonable nervous sensibilities.

Sound level means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971). If the frequency weighting employed is not indicated, the A-weighting shall apply.

Sound level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averages, output meter, and weighting network used to measure sound pressure levels.

(Ord. No. 62550, 3-20-86; Ord. No. 75012, 1-9-92)

Sec. 21-52. Noise nuisance enumeration.

(a) The following acts, among others not hereinafter enumerated, are declared to be "noise nuisances," and are unlawful and in violation of the provisions of this division when such acts are done or accomplished or carried on in such a manner, or with such volume, intensity, or with continued duration, so as to annoy, to distress, or to disturb the quiet, comfort, or repose of any person of reasonable nervous sensibilities within the vicinity or hearing thereof, or so as to endanger or injure the safety or health of humans or animals, or so as to interfere with the physical well being of humans or animals, or so as to endanger or injure personal or real property:

(1) The playing or permitting or causing the playing of any radio, television, phonograph, drum, juke box, nickelodeon, musical instrument, sound amplifier or similar device which produces, reproduces, or amplifies sound.

(2) Any loud or vociferous language or any soliciting for, or description of, any amusement house, moving picture theater, or other like place of amusement, or for the performance therein, in the entrance thereto, the foyer or lobby thereof, or on the sidewalks adjoining the same.

(3) The keeping of any animal, fowl, or bird, which makes frequent or long, continued noise.

(4) The continued or frequent sounding of any horn or other signal device on any automobile or vehicle, motorcycle, bus or other vehicle, except as a danger signal.

(5) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, automobile, motorcycle, or other motor vehicle or boat, except through a muffler or other device which prevents loud or explosive noises therefrom.

(6) The erection, including construction, excavation, demolition, alteration, or repair work, or the permitting or causing thereof, of any building or other structure, or the operation or the permitting or causing the operation of any tools or equipment used in construction, excavation, drilling, demolition, alteration or repair work:

a. Other than during the daytime on week days; or

b. At anytime such that the sound level at or across a real property boundary exceeds 80dBA.

c. This section shall not apply in cases of urgent necessity in the interest of public safety, or in cases of public convenience, including city sponsored or co-sponsored fiestas, parades, and public events.

(7) The crying, calling, or shouting, in person or by a mechanical device, or the use of any whistle, rattle, bell, gong, clapper, hammer, drum, horn, loudspeaker or phonograph with or without an amplifier, hand organ, or other devices or instruments, musical or otherwise, for the purpose of advertising any candidates for elective office, any goods, wares, or merchandise, or for the purpose of attracting attention to or inviting persons to any political rally, meeting or gathering, to any place of amusement, to any performance or show, or to any business or activity whatsoever.

(8) The raucous shouting, whistling, yelling, singing, hooting, or crying of peddlers, hawkers, vendors or any other persons.

(9) The making of noise which exceeds sixty-three (63) decibels on residential zoned property as defined by City Code Chapter 35 (Unified Development Code), when measured from property under separate ownership.

(10) The making of noise which exceeds seventy (70) decibels on business zoned property as defined by City Code Chapter 35 (Unified Development Code), when measured from property under separate ownership.

(11) The making of noise which exceeds seventy-two (72) decibels on industrial zoned property as defined by City Code Chapter 35 (Unified Development Code), when measured from property under separate ownership.

(12) The making of noise which exceeds 85 decibels using the Leq method of noise measure for noise emanating from entertainment zoned property as defined by City Code Chapter 35 (Unified Development Code), when measured from property under separate ownership. Any adjacent property owned, leased, controlled or managed by any person or entity or any affiliate that directly or indirectly controls, is controlled by, or shares common control with the other entity that has an ownership interest or lease interest in the monitored property shall not be considered property under separate ownership for purposes of determining the boundaries of the noise source property in an entertainment district.

(b) Special noise corrections. Corrections shall be made to the basic octave band levels specified in subsections 21-52(a)(10) through (12) and section 21-58(b) for the specific conditions listed in accordance with the following table, designated as Table 1, except that nighttime corrections shall not apply in the River Walk area.

(c) River Walk Area corrections. Subsections (a)(10) through (12) above shall not apply in the River Walk Area which shall be regulated by the noise provisions in section 21-58.

TABLE 1

Corrections Permitted to Basic Octave Band Levels

Noise is Present at Nighttime..... Subtract 7 dB

Noise Contains Strong Pure-Tone Components or is Impulsive
(Meter reading changes at a rate greater than 10db per second).....Subtract 7 dB

Noise Has an "On Time" of No More Than:	And an "Off Time" Between Successive "On Times" of At Least:
0.5 minutes	1/2 hour*
5.0 minutes	1 hour *
10.0 minutes	2 hour*
20.0 minutes	4 hour*

*Add 10 Decibels to Permitted Levels

(Ord. No. 62550, 3-20-86; Ord. No. 70842, § 4, 1221-89; Ord. No. 75012, 1-9-92; Ord. No. 83939, § 1(a), (b), 4-11-96)

Sec. 21-53. Vibration.

It shall be unlawful to operate, or to permit or to cause the operation of any device that creates vibration which is above the vibration perception threshold of an individual at or beyond the property of the source if on private property or at fifty (50) feet from the source if in a public space or public right-of-way. For the purpose of this section, "vibration perception threshold" means the minimum ground- or structure-borne vibrational motion necessary to cause a reasonable person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

(Ord. No. 62550, 3-20-86)

Sec. 21-54. Exceptions.

The provisions of this division shall not apply to:

- (1) The emission of sound for the purpose of alerting persons to an emergency; or

(2) Sound produced by emergency vehicles; or

(3) Sound produced by a vehicle motor while the vehicle is moving on a public right-of-way, public waterway, airport runway, or railway; or

(4) Sound produced by any governmental body in the performance of a governmental function; or

(5) Sound generated at a scheduled stadium event; by parade spectators and participants on the parade route during a permitted parade; by outdoor celebration participants sponsored or co-sponsored by the city for the general welfare of the public; by patrons and participants using cannons and gunfire during historical battle reenactments for which a pyrotechnic permit has been obtained and the explosives have been inspected and approved by the fire marshall; by pyrotechnic displays that are inspected and approved by the City of San Antonio Fire Marshall.

(Ord. No. 62550, 3-20-86; Ord. No. 70842, §§ 3, 4, 12-21-89; Ord. No. 75012, 1-9-92)

Editor's note--Ordinance No. 75012, adopted Jan. 9, 1992, amended § 21-54(a) and repealed subsections (b) and (c) of said section. Inasmuch as § 21-54 previously consisted of subsections (a)--(c), the designation of "(a)" has been removed from such paragraph at the editor's discretion.

Sec. 21-55. Method of noise measurement.

Whenever portions of this chapter prohibit noise over a certain decibel limit, measurement of said noise shall be made with a decibel meter meeting the standards prescribed by the American Standards Association. The instruments shall be maintained in calibration and good working order. Calibration corrections shall be employed in meeting the response specifications prior to every sampling of noise. Measurements recorded shall be taken so as to provide a proper representation of the noise being measured. The microphone shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured. Times when the level of primary noise being measured does not exceed that of the background noise shall be considered as "off times" of the primary noise in determining the corrections from the Correction Table found in section 21-52(b). Except as provided in section 21-52(a)(12), measurements may be taken at a point on adjacent private property or on either side of an adjacent public right-of-way at or near the boundary line of the property where the noise is generated.

(Ord. No. 62550, 3-20-86; Ord. No. 75012, 1-9-92)

Sec. 21-56. Enforcement.

(a) Administrative stop order.

(1) The director of Code compliance, his designee, or his duly authorized noise abatement officers may issue an order to any person having possession or control over noise generating property to immediately halt any sound which exposes any person, except those excluded in subsection (2) below, to continuous or impulsive noise levels in excess of those shown in Tables 1 through 4. Within five (5) days following issuance of such an order, the director of Code compliance or his duly authorized representative may apply to the appropriate court for an injunction to replace the administrative stop order.

(2) No stop order shall be issued if the only persons exposed to sound levels in excess of those listed in Tables 1 through 4 are exposed as a result of:

a. Trespass; or

b. Invitation upon private property by the person causing or permitting the sound.

(b) *Identification of violator.* The persons responsible for violations of this article are identified as follows:

(1) *At private residences.* Any adult resident present at the time of the offense, and any adult guest or adult trespasser with the ability to control the level of noise at the time of the offense when no adult resident is present at the time of the offense.

(2) *At business locations.* Any business owner, operator, manager, employee in charge, and all persons in control or in possession of the noise nuisance generating instrument or property at the time of the offense.

(3) *At any location with an unattended noise nuisance producing machine, device, instrument, child, animal or combination of same.* Any person who leaves unattended any machine, instrument, device, child, animal, or any combination of same, which thereafter commences producing noise in violation of this article.

(c) *Seizure of noise producing property.* The Code compliance director or his duly authorized agents are hereby authorized to apply to any magistrate for an administrative search warrant for the purpose of entering private property to investigate and identify noise nuisance producing devices, machines, instruments, or objects. Such identified property may be seized to summarily abate the noise nuisance if:

(1) A person who is cited for the subject noise violation has been convicted of a violation of any provision of this article within the preceding twelve (12) months, or has been declared to be an "habitual noise nuisance violator" within the preceding twenty-four (24) months; or

(2) The location of the noise nuisance has been declared an habitual noise nuisance source by the Code compliance director, after appropriate notice to the real property owner or person in possession of the subject noise-source real property, of an administrative hearing to be held for the purpose of hearing evidence and determining whether the subject location is in fact an "habitual noise nuisance source." Upon finding a location to be an "habitual noise nuisance source," the noise producing property shall be immediately seized at the time of any subsequent violations whether or not there is a previous noise nuisance conviction associated with the location.

Such seizures shall be for the purpose of assuring continued cessation of the noise nuisance after the departure of the noise abatement peace officers by securing the instrumentality of the noise nuisance temporarily. The noise producing device, machine, instrument, or object shall be returned to the owner or person proving the right of possession, or to his/her authorized agent, not sooner than twenty-four (24) hours after seizure. Any disputed ownership or right of possession shall be resolved at a property disposition hearing before a magistrate of the City of San Antonio, Texas. Seizure of noise nuisance producing property shall be accomplished in addition to and not in lieu of municipal court prosecution and/or a civil suit for injunctive relief and civil penalties.

(d) *Impoundment of noise nuisance animals.* Upon the determination by the Code compliance director that any animal(s) at an identified address or location within the City of San Antonio has produced noise on two (2) occasions of a nature and intensity that violates the standards established by this article, he may notify the resident or occupant that the animal(s) are producing a noise nuisance, and that an administrative hearing shall be held for the purpose of determining if the animal(s) constitute a continuing noise nuisance which must be summarily abated by seizure and impoundment until the owner or person from whom the animal was seized provides written consent of another person to provide shelter and care for the animal(s) in a fenced property not less than two hundred (200) feet from any neighboring residential structure, or until the tenth day of impoundment. Said animals shall be destroyed if not reclaimed on or before the ten (10) days of impoundment.

(e) *Declaration of habitual noise nuisance producer.* After producing noise measured at decibels in excess of the maximum allow by this article on three (3) separate days within a twelve-month period, the noise producer shall be given notice of an administrative hearing before a municipal court magistrate for the purpose of introducing evidence so that the magistrate can make a determination of whether or not the cited noise producer is an "habitual noise nuisance producer," and if the Magistrate so finds, a written declaration of said finding shall be signed by the magistrate and kept on file by the abatement officer for a period of one (1) year.

(f) *Declaration of habitual noise nuisance location.* After the production of noise in excess of that allowed by this article by anyone at the same address or property location on three (3) separate days within a twelve-month period, the owner or lessee or person in possession shall be given notice of an administrative hearing before a municipal court magistrate for the purpose of introducing evidence so that the magistrate can make a determination of whether or not the location is an "habitual noise nuisance source," and if the magistrate so finds, a written declaration of said finding shall be signed by the magistrate and shall be kept on file by the abatement officer for a period of one (1) year.

(g) *Seizure.* If the magistrate determines that the noise producer is an "habitual noise nuisance producer" or that the location is an "habitual noise nuisance source," the noise producing instrument, equipment, or other noise producing item used by the habitual noise nuisance producer may be immediately seized at the time of a subsequent decibel measurement in excess of that allowed by this article. At the time of such seizure, a written notice of the right to an immediate administrative hearing before a municipal court magistrate shall be issued to the habitual noise producer or owner or person in possession of the habitual noise nuisance source. The hearing shall be for the purpose of determining if a noise nuisance actually occurred on which the abatement officer based his seizure, and to voice any complaints about the manner of the seizure. If the noise produced is determined by the magistrate not to constitute a noise nuisance, the subject property shall be immediately delivered over the person from whom it was seized.

(Ord. No. 62550, 3-20-86; Ord. No. 70842, § 4, 1221-89; Ord. No. 75012, 1-9-92)

Sec. 21-57. Penalties.

Any person who violates any portion of this division is guilty of a misdemeanor and shall upon conviction be subject to a fine of not less than thirty-five dollars (\$35.00) nor more than two thousand dollars (\$2,000.00). For the second or subsequent conviction within a twelve-month period, said person shall be fined not less than seventy dollars (\$70.00) nor more than two thousand dollars (\$2,000.00).

(Ord. No. 70842, § 4, 12-21-89)

Sec. 21-58. River Walk standards.

In addition to the foregoing noise regulations, the following acts are declared to be noise nuisances when occurring in the River Walk area, and it shall be unlawful for establishments located in the River Walk area, and the owners, managers, or officers thereof:

(a) To place or cause to be placed speakers or amplified music on or near the patio of the establishment or in any other location outside the enclosed building on any side of the premises which can be seen from the San Antonio River;

(b) To create or allow the creation of noise from the establishment which exceeds a decibel level of 72 dBA using the A frequency weighting and 80 dBC using the C frequency weighting. This section is intended to prohibit the stated noise levels under both frequency measurements; and

(c) To, if the establishment has been declared a habitual noise nuisance under section 21-56 of this chapter, and in addition to the remedies provided in section (g) thereof, keep any windows and doors to the establishment open after the hour of 10:00 p.m. except as necessary to provide for entry and exit to and from the establishment for a period of ninety (90) days from the date of the declaration.

For purposes of this chapter, the term, "River Walk area" shall have the meaning assigned to it in Chapter 35, Article VII of this Code.

(Ord. No. 83939, § 1(c), 4-11-96)

Sec. 21-59. Appointment of abatement officers.

The city manager, or his designee, or the director of code compliance is authorized to appoint state licensed peace officers as "abatement officers" for nuisance abatement duties, and said officers shall report to the director of code compliance or his designee as members of the staff of said department. Each peace officer appointment shall terminate with the termination of the nuisance abatement duty for which the peace officer was hired.

(Ord. No. 75012, 1-9-92)

Secs. 21-60--21-65. Reserved.

DIVISION 2. QUIET ZONES

Sec. 21-66. Created.

(a) *Schools and other institutions of learning.* All territory embraced within a distance of two hundred and fifty (250) feet of the real property upon which is situated any public or private school or institution of learning is hereby declared to be "Quiet Zone" during the period of time the schools and institutions of learning are in session.

(b) *Hospitals and sanitariums.* All territory embraced within a distance of two hundred and fifty (250) feet of the real property upon which is situated any hospital, sanitarium or other like institution for the treatment of sick persons, public and private, shall be held to be, and are declared to be "Quiet Zones."

(Code 1959, § 25-3)

Sec. 21-67. Display of signs and placards.

It shall be the duty of the Code compliance director to place and maintain, or cause to be placed and maintained, on lampposts or other such post or object in some conspicuous place on every street, avenue, and alley in the vicinity of every school or other institution of learning, public and private, and every sanitarium, hospital or other like institution, public and private, signs or placards which shall indicate that the same is a "quiet zone." The signs or placards shall be placed on such streets, avenues and alleys at a distance of not less than two hundred fifty (250) feet in every direction from the real property upon which is situated, any school or other institution of learning, or any hospital, sanitarium or other like institution for the treatment of sick persons. The signs or placards shall read in a manner similar to, but not restricted to the following: "School--Quiet Zone," or "Hospital--Quiet Zone." Where proper and lawful, the signs or placards designating a quiet zone may also designate the lawful speed limit in such school, or other institution of learning, zone or area in a manner similar to, but not restricted to, the following: "School--Quiet Zone--Speed Limit M.P.H."

(Code 1950, Ch. 40; Ord. No. 18222, 8-28-52; Code 1959, § 25-4; Ord. No. 70842, § 3, 12-21-89)

Sec. 21-68. Creation of "noise nuisance" therein.

The making, causing, or creating, or permitting or allowing to be made, caused, or created, any loud, vexing, irritating or disturbing noise which interferes with the operations or workings of any school, or other institution of learning, public or private, or hospital, sanitarium or other like institution for the treatment of sick persons, public or private, situated within an area designated as a "Quiet Zone" is hereby declared to be a "noise nuisance," unlawful and prohibited.

(Code 1950, Ch. 40; Ord. No. 18222, 8-28-52; Code 1959, § 25-5)